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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
Eastern Division**

KARA JORDAN,

Plaintiff,

vs.

**HYSTER-YALE GROUP, INC. and
BRIGGS INDUSTRIAL SOLUTION,
INC.,**

Defendants.

Civil Action No.: _____

Hon.

NOTICE OF REMOVAL

Document Filed Electronically

TO: CHIEF DISTRICT JUDGE AND DISTRICT JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TENNESSEE, EASTERN DIVISION

PLEASE TAKE NOTICE that Removing Defendant Hyster-Yale Group, Inc. (“Removing Defendant HYG”), by and through its counsel, Nelson Mullins Riley & Scarborough LLP, hereby removes this product liability action pending in the Circuit Court of the State of Tennessee for the Twenty-Fourth Judicial District at Savannah, Civil Action No. 22-CV-26, to the United States District Court for the Western District of Tennessee, Eastern Division, pursuant to 28 U.S.C. §§ 1441 and 1446, and in accordance with 28 U.S.C. § 1332, on the following grounds:

1. On or about July 28, 2022, Plaintiff Kara Jordan, individually and on behalf of deceased spouse, Jesse Jordan, F.U.B. minor child, A.J. (“Plaintiff”), commenced this product liability action by filing a Complaint (“Complaint”) in the Circuit Court of the State of Tennessee for the Twenty-Fourth Judicial District at Savannah, Civil Action No. 22-CV-26. A true and accurate copy of Plaintiff’s Complaint is attached hereto as **Exhibit A**.
2. Plaintiff’s suit arises out of a fatal accident that occurred while decedent Jesse Jordan was operating and removing debris from a Hyster-Yale H80FT sit-down forklift manufactured by Removing Defendant HYG, in a Packaging Corporation of America warehouse on July 29, 2021. Plaintiff asserts product liability, negligence, wrongful death, and punitive damage claims against Removing Defendant HYG.
3. Plaintiff also asserts negligence, wrongful death, and punitive damages claims against Briggs Industrial Solutions, Inc. (“Briggs”).

I. JURISDICTIONAL BASIS FOR REMOVAL.

A. The Court Has Diversity Jurisdiction Under 28 U.S.C. § 1332.

4. 28 U.S.C. § 1332 gives the United States District Court jurisdiction over this product liability action because it is between citizens of different states and the amount in controversy is greater than \$75,000, exclusive of interest and costs. Thus, this action could have originally been filed in this Court.
 1. Diversity of Citizenship.
5. Jesse Jordan lived in Stantonville, McNairy County, Tennessee until his death. At the time of his death, Mr. Jordan was a citizen of Tennessee. *See Von Dunser v. Aronoff*, 915 F.2d 1071, 1072 (6th Cir. 1990) (“State citizenship for purposes of the diversity requirement is equated with domicile.”); *see also Miss. Band of Choctaw Indians v.*

Holyfield, 490 U.S. 30, 48 (1989) (“[D]omicile is established by physical presence in a place in connection with a certain state of mind concerning one’s intent to remain there.”).

6. Plaintiff therefore is a citizen of Tennessee. 28 U.S.C. § 1332(c)(2) (“[T]he legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent[.]”).
7. Removing Defendant HYG is a Delaware corporation with its principal place of business at 5875 Landerbrook Drive, Suite 300, Cleveland, Ohio 44124. Removing Defendant HYG’s high level officers direct, control, and coordinate its activities from its headquarters at 5875 Landerbrook Drive, Suite 300, Cleveland, Ohio 44124. Removing Defendant HYG is a citizen of the States of Ohio and Delaware. 28 U.S.C. § 1332(c)(1) (“a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business.”).
8. Co-Defendant Briggs is a Delaware corporation with its principal place of business in Dallas, Texas. Co-Defendant Briggs is a citizen of the States of Delaware and Texas. 28 U.S.C. § 1332(c)(1) (“a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business.”).
9. As Plaintiff is a citizen of Tennessee, Removing Defendant HYG is a citizen of Ohio and Delaware, and co-Defendant Briggs is a citizen of Delaware and Texas, complete diversity exists between Plaintiff, Removing Defendant HYG, and co-Defendant Briggs.

2. Amount in Controversy.

10. Plaintiff alleges that she is seeking damages for the “injuries that ultimately led to the death of Jesse Jordan”. *See, e.g.*, Compl. (Ex. A) at ¶ 37.
11. Plaintiff also seeks punitive damages against Removing Defendant HYG and co-Defendant Briggs, and damages for wrongful death and general and special damages against all Defendants.
12. Plaintiff demands judgment against Removing Defendant HYG and Briggs for compensatory damages in the sum of Five-Million Dollars (\$5,000,000) and punitive damages in the sum of Ten-Million Dollars (\$10,000,000). *Id.* at WHEREFORE Paragraph following ¶ 48.

II. Procedural Requirements for Removal.

13. Removing Defendant HYG was served with the Summons and Complaint on August 15, 2022. Accordingly, this Notice of Removal is timely under 28 U.S.C. § 1446(b).
14. This product liability action is being removed “to the district court of the United States for the district and division embracing the place where such action is pending” under 28 U.S.C. § 1441(a). The United States District Court for the Western District of Tennessee, Eastern Division embraces Hardin and McNairy County, Tennessee. *See* 28 U.S.C. § 123(c)(1) (“The [Western District,] Eastern Division comprises the counties of Benton, Carroll, Chester, Crockett, Decatur, Dyer, Gibson, Hardeman, **Hardin**, Haywood, Henderson, Henry, Lake, **McNairy**, Madison, Obion, Perry, and Weakley.”) (emphasis added).
15. No previous application has been made for the relief requested herein.

16. Removing Defendant HYG is filing written notice of this removal with the Circuit Court of the State of Tennessee for the Twenty-Fourth Judicial District at Savannah, as required by 28 U.S.C. § 1446(d). A true and accurate copy of Removing Defendant HYG's

Notice of Filing of Notice of Removal is attached hereto as **Exhibit B**.

17. Under 28 U.S.C. § 1446(d), Plaintiff and Briggs are being served with copies of Removing Defendant HYG's Notice of Filing of Notice of Removal and this Notice of Removal.

18. Copies of the "process, pleadings and orders" served on Removing Defendant HYG are attached as **Exhibit C**. See 28 U.S.C. § 1446.

19. Co-Defendant Briggs has consented to the removal of this action.

20. No admission of fact, law, or liability is intended by the filing of this Notice of Removal, and all defenses, motions, and pleas are expressly preserved.

WHEREFORE, the action filed in the Circuit Court of the State of Tennessee for the Twenty-Fourth Judicial District at Savannah is removed to this Court. No further proceedings shall be had in the Circuit Court of the State of Tennessee for the Twenty-Fourth Judicial District at Savannah. Should any question arise as to this removal, the removing defendant respectfully requests an opportunity to provide briefing and oral argument as to why removal is proper.

Dated: September 14, 2022
Nashville, TN

By: /s/ Thomas J. Cullen, Jr.
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